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CLERK U.S. DISTRICT COURT
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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

ADAM GHADIRI,

Case No.: **8:18-cv-01869 AG (ADSx)**

Plaintiff,

**FIRST AMENDED COMPLAINT FOR
 DAMAGES AND INJUNCTIVE RELIEF
 FOR VIOLATIONS OF AMERICANS
 WITH DISABILITIES ACT; CALIFORNIA
 UNRUH CIVIL RIGHTS ACT; GENERAL
 NEGLIGENCE**

vs.

CARPET & LINOLEUM CITY, a business
 entity; CHAD BOUCE, an individual;
 BRUCE HAWKINS, an individual;
 JACQUELINE COX as trustee of the
 JACQUELINE M. COX TRUST,

Defendants

Plaintiff ADAM GHADIRI ("Plaintiff") complains of defendants CARPET &
 LINOLEUM CITY, CHAD BOUCE, BRUCE HAWKINS, and JACQUELINE COX (all
 defendants collectively referenced herein as "Defendants") as follows.

PARTIES

1. Plaintiff is a California resident with physical disabilities. He suffers from severe
 arthritis in his knees and back. He has been diagnosed with spinal stenosis, neuropathy, and
 nerve damage. He has difficulty walking and uses a cane, a walker, and a wheelchair for
 mobility. He suffers daily with pain that requires him to take pain medication. He has a
 California driver's license and drives for business activities and for his household errands.
 Plaintiff has a California handicap parking placard that is prominently displayed in his vehicle.

2. Defendant CARPET & LINOLEUM CITY is a retail carpet store located at 1204
 S. Redondo Ave., Long Beach, CA 90804.

3. Plaintiff is informed and believes and thereon alleges that defendants CHAD
 BOUCE and BRUCE HAWKINS are the business license holders and owners of CARPET &
 LINOLEUM CITY.

1 4. Plaintiff is informed and believes and thereon alleges that defendant
2 JACQUELINE COX is the trustee of the JACQUELINE M. COX TRUST which holds title to
3 the premises, building, and/or the land located at 1204 S. Redondo Ave., Long Beach, CA.

4 5. Plaintiff does not know the true names of all possible defendants, their business
5 capacities, their ownership connection to the property and the business, or their relative
6 responsibilities in causing the access violations herein complained of, and plaintiff alleges a
7 joint venture and common enterprise by all defendants. Plaintiff is informed and believes that
8 each of the defendants is responsible in some capacity for the events and damages alleged or is a
9 necessary party for obtaining appropriate relief. Plaintiff shall seek leave to amend the
10 complaint to name and add other defendants when their identities are ascertained.

11 **JURISDICTION & VENUE**

12 6. This court has subject matter jurisdiction over this action pursuant to 28 U.S.
13 Code § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of
14 1990, 42 U.S. Code § 12101, et seq.

15 7. Pursuant to pendant jurisdiction, an attendant and related cause of action arising
16 from the same nucleus of transactions is brought under California's Unruh Civil Rights Act
17 (Civil Code §§51-52) which expressly incorporates the Americans with Disabilities Act.

18 8. Venue is proper in this court pursuant to 28 U.S. Code § 1391(b) and is founded
19 on the fact that the real property which is the subject of this action is located in this district and
20 Plaintiff's causes of action arose in the district.

21 **FACTUAL ALLEGATIONS**

22 9. Plaintiff went to CARPET & LINOLEUM CITY in or about October 2018 to
23 purchase carpeting. When entering the parking lot, Plaintiff noticed there were no signs posted
24 to indicate the location of reserved handicap parking, there was no handicap parking space, and
25 there was no van access space. The condition of the parking lot, therefore, denied Plaintiff, as a
26 disabled person, full and equal access to the business and caused him difficulty and frustration
27 in his attempts to consummate business there.

28 10. Failing to provide full and properly maintained access to the handicap parking

1 area amounts to a violation of the operative American with Disabilities Act Guidelines
 2 (“ADAAG”). Additionally, the lack of signage shows neglect and demonstrates Defendants are
 3 not implementing any policy of upkeep so as to give disabled persons practical access to the
 4 given premises and services equal to the access enjoyed by non-disabled persons; this amounts
 5 to illegal discrimination against disabled persons who wish to patronize CARPET &
 6 LINOLEUM CITY as a place of public accommodation.

7 11. Plaintiff personally encountered violations of applicable legal obligations and
 8 standards that prevented him from full and equal access to convenient, safe, adequate, and
 9 appropriate restroom facilities. Plaintiff would like to patronize this establishment again but
 10 cannot do so until the defendants remove these barriers or obstacles to proper access equal for
 11 everyone and correct all violations of law. Plaintiff seeks to have all barriers and obstacles
 12 related to disabled persons remedied, whichever may exist, regardless of whether he personally
 13 encountered any of them. See *Doran v. 7-11*, 506 F3d 1191 (9th Cir 2007), holding that once a
 14 handicapped plaintiff encounters one barrier to equal access at a given site, he can sue to have
 15 all other barriers relating to his disability removed even if he did not personally encounter those
 16 barriers on the given occasion. Additionally, Plaintiff believes and alleges that Defendants’
 17 failure to remedy and remove the specific barriers (difficulties) to access for disabled persons,
 18 as mentioned in Paragraph 9 above, is intentional because (a) these particular barriers are
 19 obvious, and (b) Defendants, jointly and severally, exercised full control and dominion over the
 20 conditions on the land and at the business at this particular location, and therefore the lack of
 21 and barriers to full equal access for disabled persons was not mere “accidental oversight”, given
 22 that had Defendants intended any other situation they had the means and ability to make the
 23 land and business fully compliant with the legal requirements mandated by the laws, as set forth
 24 in the causes of action below.

25 **FIRST CAUSE OF ACTION**
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990
 26 **(Against All Defendants (42 U.S. Code § 12101, et seq.))**

27 12. Plaintiff realleges and incorporates by reference the allegations contained in all
 28 prior paragraphs of this complaint.

1 13. Defendants own, operate, lease from, or lease to a place of public
2 accommodation commonly known as CARPET & LINOLEUM CITY. Under the ADA, it is an
3 act of discrimination for any person(s) who owns, leases (or leases to), or operates a place of
4 public accommodation to deny to disabled persons the full and equal enjoyment of the goods,
5 services, facilities, privileges, advantages, or accommodations of any place of public
6 accommodation. 42 U.S. Code § 12182(a). U.S. Code § 12182(b) defines discrimination, inter
7 alia, as follows:

8 a. A failure to make reasonable modifications in policies, practices,
9 or procedures, when such modifications are necessary to afford such goods,
10 services, facilities, privileges, advantages, or accommodations to individuals with
11 disabilities, unless the entity can demonstrate that making such modifications
12 would fundamentally alter the nature of such goods, services, facilities, privileges,
13 advantages, or accommodations. 42 U.S. Code § 12182(b)(2)(A)(ii).

14 b. A failure to remove architectural barriers, and communication
15 barriers that are structural in nature, in existing facilities, ...where such removal is
16 readily achievable. See 42 U.S. Code § 12182(b)(2)(A)(iv). Barriers can be
17 defined by reference to the ADAAG, found at 28 Code Federal Regulations, Part
18 36, Appendix D.

19 c. A failure to design and construct facilities for first occupancy, if
20 later than 30 months after July 26, 1990, that are readily accessible to and usable
21 by individuals with disabilities, except where an entity can demonstrate that it is
22 structurally impracticable to meet the requirements of such subsection in
23 accordance with standards set forth or incorporated by reference in regulations
24 issued under this subchapter. 42 U.S. Code § 12183(a)(1).

25 14. Defendants are persons or business entities that own, operate, or lease a place of
26 public accommodation. As such, Defendants are required to avoid discrimination and have
27 specific duties to (1) ensure that all construction, alteration, or modification is barrier-free as to
28 disabled persons and complies with the currently operative ADAAG; and/or (2) remove all

existing barriers to disabled persons where such removal is readily achievable, and/or (3) to provide alternatives to barrier removal for the benefit of the disabled persons so that they do enjoy equal access at places of public accommodation. Defendants have failed to meet these obligations. Consequently, Plaintiff is entitled to court-ordered relief against the defendants, to make sure that within six months from the beginning of this action the defendants render their public accommodation premises fully compliant with the ADA.

**SECOND CAUSE OF ACTION
VIOLATION OF THE UNRUH CIVIL RIGHTS ACT
(Against All Defendants (Cal Civil Code § 51-53))**

15. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this complaint.

16. Because Defendants violated Plaintiff's rights under the ADA, they also violated the Unruh Civil Rights Act and are liable for damages. Civil Code § 51(f), 52(a).

17. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort, and embarrassment for the plaintiff, the defendants are also responsible for statutory damages, i.e., civil penalties. See Civil Code § 51(f), 52(a).

**THIRD CAUSE OF ACTION
GENERAL NEGLIGENCE
(Against All Defendants)**

18. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this complaint.

19. Defendants owe a duty of care to Plaintiff, arising under the ADA and Unruh Civil Rights Act, to provide safe, convenient, and accessible facilities. Their violations of this duty, as alleged in the preceding paragraphs of this complaint, has caused inconvenience, injury, and damage to Plaintiff in the amount of at least minimal amounts of damages allowed by applicable statutes, the exact amount to be determined at the trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this court award damages and provide relief against all named Defendants, jointly and severally, as follows:

1. For mandatory injunctive relief, compelling Defendants jointly and severally to

1 comply with the Americans with Disability Act and the California Unruh Civil Rights Act by
2 fully correcting all violations of the requirements of these laws within six months of being
3 served with Summons and Complaint in this action, and that said Defendants be required to
4 report to Plaintiff and to the Court of the actual status of the correction of the defects charged in
5 this Complaint on the next day after the six month period has expired.

6 2. For damages under the Americans with Disability Act and/or the Unruh Civil Rights
7 Act where applicable, which statutes provide for actual damages and a statutory minimum of
8 \$4,000. If the Plaintiff cannot recover under both Unruh and ADA, simultaneously, an election
9 will be made prior to or at trial, at an appropriate stage in these legal proceedings.

10 3. For damages for general negligence, in the amount of at least minimal amounts of
11 damages allowed by applicable statutes, or alternatively \$4000, the exact amount to be
12 determined at trial.

13 4. For reasonable litigation expenses and costs of suit pursuant to 42 U.S. Code § 12205,
14 Cal Civil Code § 52, and Cal Code of Civil Procedure § 1021.5. Should Plaintiff eventually hire
15 an attorney to represent him in this action, Plaintiff will seek reasonable attorneys' fees pursuant
16 to 42 U.S. Code § 12205, Cal Civil Code § 52, and Cal Code of Civil Procedure § 1021.5.

17 5. For such other and further relief as the court deems just and proper.

18 Dated: October 10, 2018

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Adam Ghadiri

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